THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 2692 of 2004

Dated: 16-11-2006

Between:

Peda Prajala Seva Samithi,
rep., by its President M.Prasad, Nellore,
Chittoor DISTRICT.

..... PETITIONER

AND

The Government of India,
Rep., by its Secretary,
Sastry Bhavan, New Delhi and
three others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 2692 of 2004

O R D E R:

The petitioner, a society registered under the Societies Registration Act, 1860, filed this writ petition seeking a declaration that the proceedings of the second respondent dated 01-12-2000, 24-05-2001, 24-07-2002, 29-04-2003 and 06-10-2003 are arbitrary and illegal.

The facts in brief are as under:

The petitioner is a society formed with the object of helping economically and socially weaker sections of the society, more particularly women and children. It is claimed that the petitioner society has been running various institutions including schools, old age homes, vocational training centers etc., at various places in Nellore and Chittoor Districts. It is stated that the Union of India has formulated several schemes through the second respondent-Central Social welfare Board so as to provide monetary help to Non-Governmental Organisations working for the welfare of the people in rural and urban areas. The funds are being released in favour of the Non-Governmental Organisations on the basis of the reports of the third respondent-State Social Welfare Advisory Board as well as the District Collectors of the concerned Districts. One of such schemes formulated by the second respondent is for establishing the Short Stay Homes (SSH) for women and girls who are in distress because of family problems like harassment from the husband, in-laws etc or the girls who have no one to look after their welfare. Such women and

girls are permitted to stay in Short Stay Home from six months to three years on their volition, during which period, they would be provided required counselling to get over the trauma suffered by them apart from imparting training in various fields to enable them to eke out an independent livelihood after leaving the Short Stay Home.

The petitioner-society claimed that it started a Short Stay Home at Gangadhara, Nellore during the year 1992-1993 and the first respondent after being satisfied with the facilities and infrastructure provided by the petitioner, released the grant to maintain the said Short Stay Home. Periodical inspections were conducted thereafter by a team of officers and grants were being released every year. It is claimed that in the year 1999-2000 also a sum of Rs.3,38,696/- was sanctioned on 14-08-1999. However, the said amount was not released on the basis of certain allegations that no Short Stay Home is existing. By letter dated 06-01-2000 the second respondent called upon the petitioner-society to submit its comments on the allegations specified therein on the basis of the reports submitted by an Officer of the State Government in November, 1999 and the Chair-person of the A.P. State Women Development and Child Welfare Board dated 22-12-1999. The petitioner submitted an explanation dated 16-01-2000 denying all the allegations and asserting that the Short Stay Home has been functioning from the date of its establishment.

Though no order was passed considering the said explanation, a fresh notice dated 11-9-2000 was issued by the 2nd respondent calling upon the petitioner to explain as to why action should not be taken for embezzling the Government funds and as to why the petitioner should not be blacklisted. The said notice was based upon the enquiry report said to have been submitted by the Revenue Divisional Officer, Chittoor District on his visit of the organization. Again by letter dated 1-12-2000 the 2nd respondent informed the petitioner society that the Revenue Divisional Officer, Chittoor who had visited the petitioner's Short Stay Home on 5-10-1999 submitted a

report recommending discontinuation of grant and the Chair-person, A.P. State Women Development and Child Welfare Board who visited the Home on 27-12-1999 and 19-3-2000 had also recommended for discontinuation of grant. The irregularities noticed during the said inspections were specified and the petitioner was informed that on the basis of the above reports and recommendations the 2nd respondent had discontinued the grants to the petitioner society.

The petitioner was also served with another proceedings dated 8-12-2000 issued by the 2nd respondent stating that the explanation offered by the petitioner dated 16-1-2000 was not satisfactory and therefore a decision has been taken to discontinue further funds under S.S.H. Programme with immediate effect. The petitioner was also requested to send the information required thereunder to enable the 2nd respondent to settle the past accounts of the petitioner society.

That apart, the second respondent issued an Office Order dated 24-05-2001 cancelling the grant under S.S.H. Programme released to the petitioner and black-listing the petitioner from further funding on the ground that Short Stay Home is not functioning as per norms and as the inmates of the Short Stay Home are not needy women. A copy of the said order was also communicated to all the Divisional Heads of the 2nd respondent. Aggrieved by the same, the petitioner made a representation dated 17-08-2001 to the Joint Director (Vigilance) with a request to drop the proceedings and to renew the grants. Thereafter, a surprise visit was made by the Project Officer, Karnataka State Welfare Advisory Board on 22-9-2001 who had thoroughly inspected the records and interviewed the inmates. The petitioner claims that she appreciated the services being rendered by the petitioner society and submitted a report recommending renewal of grant to the petitioner's S.S.H.

While referring to the said report, the petitioner made a

representation dated 23-6-2002 to the A.P. State Women Development and Child Welfare Board requesting to depute an Officer from the State Board to inspect the petitioner's S.S.H. and to send a latest report to the 2nd respondent. Though the Chair-person of A.P. State Women Development & Child Welfare submitted a favourable report dated 10-7-2002, the 2nd respondent by letter dated 24-7-2002 informed the petitioner that in view of the reports submitted by the concerned officials earlier, it has been decided to black-list the petitioner organization permanently and recover the amounts already released. Aggrieved by the same, the petitioner made a representation/appeal dated 16-8-2002 before the Secretary to Government of India, Department of Women & Child Development (1st respondent herein) with a request to set aside the order of black-listing and to release the grants from the years 1999-2000 onwards. Alleging that the said representation was not considered, the petitioner filed W.P.No.4003 of 2003 in this Court. In the said writ petition by way of an interim order dated 6-5-2003 the first respondent was directed to consider and dispose of the representation of the writ petitioner dated 16-08-2002 within a period of six weeks. Pursuant to the same, the first respondent passed an order dated 06-10-2003 rejecting the representation of the petitioner dated 16-08-2002. Hence, this writ petition.

It is primarily contended by the petitioner that the entire action of the respondents was without application of mind to the material on record. It is pleaded that the report of the Revenue Divisional Officer, Chittoor said to have been given in the year 1999 itself was fabricated and non-existing.

It is pleaded that the Short Stay Home of the petitioner was inspected by various officials on different dates and favourable reports were submitted on being satisfied with the functioning of the Home. The petitioner refers to the following reports:

(1) The team of officers consisting of the District Tribal Welfare

Officer, Project Director, District Women and Child Development Agency, Assistant Director, Disabled Welfare inspected all the institutions run by the petitioner including the Short Stay Home and submitted a detailed report on 26-09-1999. Basing on the said report, the Principal Secretary to the Government, Women Development and Child Welfare Department recommended to the first respondent to renew the grant-in-aid to the petitioner's Short Stay Home vide proceedings dated 03-04-2001.

(2) The Project Officer of Karnataka State Welfare Advisory Board by name Smt. G.V.Manjula Bai surprised the petitioner's SSH on 22-09-2001 and made a thorough inspection of the records and also interviewed the inmates. The report submitted by her was in favour of the petitioner and the role played by the petitioner in giving protection to the distressed women was appreciated. She also recommended for consideration of renewal of grant to the petitioner's SSH.

(3) The Chairperson of the A.P. State Social Welfare Advisory Board (third respondent) inspected the Short Stay Home on 03-07-2002 and submitted a report dated 10-07-2002 to the 1st respondent in which the particulars of inmates as well as staff engaged by the petitioner for running the Short Stay Home were mentioned in detail and it was further stated that the institution was suffering due to lack of funds and it is necessary to renew the grants.

The petitioner contended that in spite of the above favourable reports, the 2nd respondent passed the impugned proceedings blacklisting the petitioner and discontinuing the grant-in-aid erroneously on the basis of the alleged report of the Revenue Divisional Officer, Chittoor. It is alleged that no such report was existing at all and that the entire proceedings were fabricated by one Mr.Elango-Assistant Project Officer of the third respondent, whose demand for illegal gratification was not satisfied by the petitioner. It is also alleged that a false report was submitted by the said Project

Officer without even inspecting the Short Stay Home.

It is also contended that before passing the impugned order dated 24-7-2002, no further opportunity was given to the petitioner to contradict the allegations made against it. That apart, the impugned order which lacks reasons suffers from vice of non-application of mind to the relevant facts.

I have heard Sri M. Prasad, the President of the petitioner society, who appeared in person, in detail and perused the material on record.

I have also heard Sri G. Vidya Sagar, the learned Counsel appearing for the 2nd respondent and the learned Standing Counsel appearing for the 1st respondent – Union of India.

Separate counters have been filed on behalf of the respondents 1 and 2 denying all the allegations made by the petitioner.

It is to be noted that in its representation/appeal dated 16-8-2002 made to the 1st respondent against the order passed by the 2nd respondent dated 24-7-2002, the petitioner raised the very same contentions which are urged in this writ petition. In compliance with the interim order of this Court in W.P.No.4003 of 2003 dated 6-5-2003 the 1st respondent having taken into consideration all the relevant aspects passed a detailed order dated 06-10-2003.

On a careful consideration of the material placed before this Court, I am unable to hold that either the order of the 2nd respondent dated 24-7-2002 or the order of the 1st respondent dated 6-10-2003 suffer from any infirmity.

Even assuming that the report of the Revenue Divisional Officer, Chittoor, being a fabricated document cannot be taken into consideration, it is relevant to note that the impugned orders were based upon the reports of the Chair-Person of the 3rd respondent Board who visited the Short Stay Home of the petitioner on 27-12-1999 and 19-3-2000. The said visits were not disputed by the

petitioner but it was only contended that the said visits were motivated and politically influenced and the same were conducted when the Short Stay Home was closed for Christmas vacation. In the very first notice issued by the 2nd respondent on 6-1-2000, the following irregularities were specified :

(i) There were no students/residents ;
(ii) No warden has been appointed;
(iii) No records of the SSH were available;
(iv) The SSH is actually the residents of the President of the Organisation;
(v) The local people stated that no SSH is functioning.

The petitioner was afforded adequate opportunity to rebut the said allegations and after considering the explanations submitted by the petitioner the 2nd respondent having found that no Short Stay Home is actually functioning discontinued the grants to the petitioner institution which was followed by the order of black-listing. Though the petitioner relied upon the reports of the Project Officer, Karnataka State Board dated 22-9-2001 and the Assistant Project Officer, A.P. State Board dated 21-12-2001 it appears that in the said reports it was observed that the Short Stay Home inmates were actually beneficiaries of vocational training.

In the counter-affidavit filed on behalf of the 2nd respondent Board, it has been explained that the Government of India has been funding the voluntary organistion/Non-Governmental Oraganisation for various schemes through the 2nd respondent Board for the benefit of the women and children in need. One of the schemes which is being funded through the 2nd respondent is Short Stay Homes for Women and Girls. The said Homes are different from the Destitute Homes or Orphanages or Homes for the Aged and Infirm. Specific guidelines have been framed for the establishment and maintenance of Short Stay Homes. As per the scheme, wherever the Government has reason to believe that the sanctioned money is not being properly

utilised for approved purpose, the payment of grant will be stopped and the earlier grants will be recovered. The Government of India, Ministry of Human Resource Development issued a Circular dated 17-8-1998 for running the Short Stay Homes which was further revised vide Notification dated 25-5-1999 under which the 2nd respondent Board was directed to monitor the scheme through its Field Officers.

In the case on hand, on the basis of the inspections made by the Field Officers and other Authorised Officers of the Board it was found that the Short Stay Home of the petitioner was not functioning at all and after informing the same to the petitioner and after considering its explanation, the grants to the petitioner were discontinued and subsequently the petitioner was black-listed on the ground that the funds have been misutilised.

As can be seen the scheme under which the funds were released to the petitioner has no statutory force and the petitioner has no legal right to claim the grant for running the SSH. The grant-in-aid under the scheme can be released only in favour of the organisation which fulfils the requirement under the sanctioned schemes.

The grant was discontinued to the petitioner SSH and subsequently the petitioner was black-listed on the basis of the reports on personal inspections by the responsible officials that no Short Stay Home was existing and that the grants released were being misutilised by the petitioner. Such orders passed by the competent authorities under a non-statutory scheme basing on findings of facts cannot be interfered by this Court while exercising the writ jurisdiction under Article 226 of the Constitution of India. The action of the 2nd respondent can neither be held without jurisdiction nor contrary to the guidelines much less there is any allegation of violation of principles of natural justice. Even the mala fides attributed to one of the officials by name Elango cannot be taken into consideration since the said official is not made a party to this writ petition.

As noted above, the petitioner cannot claim any legal right for release of grant under the schemes floated by the 1st respondent and it cannot be said that there is infringement of a legal right acquired by the petitioner. Hence, no Writ of Mandamus can be issued compelling the respondents 1 and 2 to release the grants to the petitioner.

The Writ Petition is devoid of any merit and the same is accordingly dismissed. No costs.

_____

G. ROHINI, J

Dated: 16-11-2006
KLP